

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **VICE CHAIRMAN PETE EKEGREN**, on February 9, 2001 at 3:20 P.M., in Room 422, Capitol.

ROLL CALL

Members Present:

Sen. Ric Holden, Chairman (R)
Sen. Pete Ekegren, Vice Chairman (R)
Sen. Mike Halligan (D)
Sen. Greg Jergeson (D)
Sen. Walter McNutt (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Gerald Pease (D)
Sen. Corey Stapleton (R)
Sen. Jon Tester (D)
Sen. Tom Zook (R)

Members Excused: None.

Members Absent: None.

Staff Present: Laramie Cumley, Committee Secretary
Doug Sternberg, Legislative Services

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 141, HB 113 1/20/01
Executive Action: HB 141, HB 113, SB 245,
HB 246, SB 261, SB 196

HEARING ON HB 141

Sponsor: REP. ROGER SOMERVILLE, HD 78, KALISPELL

Proponents: Steve Street, Montana Mint Growers Association
Ralph Peck, Montana Department of Agriculture

Opponents: none

Opening Statement by Sponsor:

REP. ROGER SOMERVILLE, HD 78, opened by explaining the bill as a tax reduction or a fee reduction which, in the new language, changes from \$50 per year to \$20 per every 10 years for mint growers. Fiscal impact of the bill is very minor.

Proponents' Testimony:

Steve Street explained the process in which mint goes through, from the grower, to the distiller or buyer and then from the buyer, to the end user. He noted that mint can taste and smell differently even if the mint was in the same field and harvested in the same day. The buyer or distiller gets the mint oil to "an end user spec" because the end users want mint oil that always is the same. The mint oil is sold to the buyers. Between 5 and 15 cents per pound of mint is deducted from the growers check. The money, is remitted to the Department of Agriculture and then appropriated for research. Presently, this fee is taken out of the purchase price of oil from the farmer. When a small buyer comes to Montana, a license is required. He stated, it is easier to exempt people who now have to buy a \$50 license to buy \$30 of mint oil. This is only a "clean-up".

Ralph Peck explained the reasons for the Departments support of the bill. He stated the reason for licensing buyers was to know who is buying mint oil and therefore, who to assess, and remitting the money so it does not disappear.

Opponents' Testimony: none

Questions from Committee Members and Responses: none.

Closing by Sponsor: **REP. ROGER SOMERVILLE** closed HB 141.

HEARING ON HB 113

Sponsor: **REP. RONALD DEVLIN, HD 3, TERRY**

Proponents:

Ray Beck, Montana Department of Natural Resources and Conservation

**Steve Pilcher, Montana Stockgrowers Association,
Montana Public Lands Council, and Montana Association
of State Grazing Districts.**

Opponents: none

Opening Statement by Sponsor:

REP. RONALD DEVLIN, HD 3, TERRY stated this was a clean-up bill to clarify "grazing districts" by changing them to "State Districts" throughout the bill. "the Department" would be changed to "the Commission". The only other change other than language, would be the change in notification of the commission from 14 days to seven days. He presented written testimony from **Bill Lochding, Chair, Montana Grass Conservation Commission.**
EXHIBIT(ags33a01)

Proponents' Testimony:

Ray Beck expressed support for the bill because of the changes involving changing the department to the commission.

Steve Pilcher discussed the importance of conservation and utilization of range resources.

Opponents' Testimony: none

Questions from Committee Members and Responses: none

Closing by Sponsor: REP. DEVLIN closed HB 113

EXECUTIVE ACTION ON HB 141

Motion/Vote: SEN. TOM ZOOK moved that HB 141 BE CONCURRED IN.
Motion carried unanimously.

EXECUTIVE ACTION ON HB 113

Motion/Vote: SEN. WALT MCNUTT moved that HB 113 BE CONCURRED IN.
Motion carried unanimously.

EXECUTIVE ACTION ON SB 245

SEN. RIC HOLDEN presented amendments **SB024501.ads** to the bill
EXHIBIT(ags33a02)

Doug Sternberg explained the amendments presented by **SEN. HOLDEN**.

Motion: **SEN. ARNIE MOHL** moved that **AMENDMENT SB024501.ADS BE ADOPTED**.

Discussion:

SEN. MCNUTT questioned the family farm corporation's eligibility.

Doug Sternberg stated that **SEN. LINDA NELSON** had requested amendments which would address the question.

SEN. NELSON presented her proposed amendments. **SB024504.ads EXHIBIT (ags33a03)**

Doug Sternberg explained the amendments.

SEN. HOLDEN suggested the two amendments be put together.

Motion: **SEN. MOHL** moved to **COMBINE AMENDMENTS SB024501.ADS AND SB024504**.

Discussion:

SEN. GREG JERGESON asked why the language, "earned income" was used.

Doug Sternberg stated the language was borrowed from the Agriculture Gas Tax Refund definition.

SEN. JERGESON questioned unearned income and the possibilities of people taking advantage of the program. Would this money be used when calculating eligibility for an account?

SEN. HOLDEN stated that there is more to the definition than just the words, "earned income". He mentioned the words, "major endeavor", and the association which makes the "earned income" idea complete. There is also a cap of \$20,000 on the account. Income is required to be proven in determining eligibility such as receipts and W-2 forms from employers. He explained that if someone would like to appeal the eligibility ruling, the administrative rule process would have to be used.

SEN. ZOOK stated this needs to all be read together.

SEN. JON TESTER said income from residual sources could be farm income.

SEN. JERGESON questioned unearned income again and taking advantage of tax free benefits of the program.

Doug Sternberg noted the language was from the tax code.

SEN. TESTER clarified it was taken out of the Gas Tax Code.

Doug Sternberg answered, that was correct.

SEN. NELSON suggested removing the word "earned".

Doug Sternberg stated this would broaden things and it would then include all income not just earned income. The main total income would then have to be from agriculture.

SEN. ZOOK stated that would make it harder to qualify. He questioned income from stocks and how that would Affect eligibility.

Substitute Motion: **SEN. JERGESON** made a substitute motion to **STRIKE "EARNED"**.

Discussion:

SEN. HOLDEN stated the whole sentence needs to be in there.

SEN. TESTER suggested if someone's earned income were not as high as income from stocks, they would not qualify for this program.

SEN. NELSON stated that a lot of farmers would not be able to find \$20,000 to set aside although, people who would get the money from earned income would have the money for this account.

Doug Sternberg noted another temporary use definition from the gas tax says if someone earns income while engaged in farming or ranching, and who files income tax forms from the IRS.

SEN. NELSON suggested leaving the word earned in, and stating earned income must be from farming and ranching.

SEN. MCNUTT stated that would not solve the problem.

SEN. TESTER asked if taxes would be specific to earned income or would proceeds from stocks and bonds be included in earned income.

SEN. COREY STAPLETON clarified that the discussion was on line 25, amendment number 2 and the reference was to primary earned income being from farming. He then explained that this may not be

something that could be differentiated without changing the intent of the whole bill. He also explained the earned income tax brackets and categories which can be different when taxed such as capitol gains, and long term gains. The sources of income would be almost impossible to differentiate. When taxes are filed at the end of the year, it is all treated as earned income.

SEN. JERGESON closed on his motion. He discussed young couples who may not be eligible and people who may take advantage of the program because of outside income such as profits from movies.

Vote: Motion **carried 9-2.**

Motion: **SEN. STAPLETON** moved to **RECONSIDER the PREVIOUS AMENDMENT suggested by SEN. JERGESON.**

Discussion:

SEN. STAPLETON explained the importance of this being further discussed.

Doug Sternberg read the definition in its entirety.

SEN. STAPLETON stated that they just did what they did not want to do. He explained the way the IRS computes social security was by looking at earned income. By having "earned income" in the definition, it would help the people who were actively engaged in agriculture and who made most of their money from agriculture.

SEN. JERGESON stated the language was for determining eligibility. If unearned income were to be included then someone with any amount of unearned income would be eligible.

Vote: Motion **carried 10-1.**

SEN. MIKE HALLIGAN questioned residency requirements for eligibility of the program.

Motion: **SEN. STAPLETON** moved place **"EARNED", BACK INTO THE AMENDMENT.** **Vote:** Motion **carried 8-3.**

SEN. MOHL closed on his motion to combine amendments **SB024501.ads** and **SB024504.ads.** **Vote:** Motion **carried 10-1 with Jergeson voting no.**

SEN. STAPLETON presented his suggested amendments **SB024503.ads** which simply changes "Bank or Credit Union" to "Financial Institution". **EXHIBIT(ags33a04)**

Motion/Vote: SEN. STAPLETON moved that **AMENDMENT SB024503.ADS BE ADOPTED. Motion carried unanimously.**

Motion: SEN. ZOOK moved that **SB 245 DO PASS AS AMENDED.**

Discussion:

SEN. JERGESON wanted to note the inadequacy of the fiscal note on the bill.

Vote: Motion **carried 10-1 with Jergeson voting no.**

EXECUTIVE ACTION ON HB 246

Motion: SEN. PETE EKEGREN moved that **HB 246 BE CONCURRED IN.**

Discussion:

SEN. HALLIGAN questioned state land or liability issues that would require a 2/3 vote.

SEN. HOLDEN referred the question to **John Bloomquist.**

John Bloomquist, Montana Stockgrowers Association, explained the definition of person in the bill, does not include the State therefore, it would not be a requirement.

SEN. STAPLETON questioned the part of the bill which stated a livestock owner had "no duty" to keep their livestock in, although, later someone could be found liable.

John Bloomquist stated highways do not allow livestock on the rights-of-way which means a livestock owner would not be liable except in cases in which a livestock owner were grossly negligent or intentionally put their livestock on the right-of-way.

SEN. STAPLETON asked **Mr. Bloomquist** if he disagreed with the person at the hearing who stated their were inconsistencies in the language of the bill.

John Bloomquist answered, yes.

Vote: Motion **carried unanimously.**

SEN. HOLDEN noted that he would carry the bill on the floor.

EXECUTIVE ACTION ON SB 261

Doug Sternberg explained proposed amendment from **SEN. HOLDEN SB026101.ads. EXHIBIT(ags33a05)** A contingency would be placed in the bill.

Motion: **SEN. EKEGREN** moved that **AMENDMENT SB026101.ADS BE ADOPTED.**

Discussion:

SEN. HALLIGAN stated industrial hemp can not be used as a drug. It would make a person sick.

SEN. STAPLETON asked what the precedence would be on leaving these "loaded guns" in the Montana code.

SEN. TESTER stated that he did not see any need for the amendment because the bill states that there would have to a waiver for it to be effective.

Vote: Motion failed 3-8 with Ekegren, Holden, and Mohl voting aye.

Motion/Vote: **SEN. HALLIGAN** moved that **SB 261 DO PASS.** Motion carried 9-2 with Mohl and Stapleton voting no.

EXECUTIVE ACTION ON SB 196

Motion/Vote: **SEN. TESTER** moved **RECONSIDER ACTION.** Motion carried unanimously.

SEN. TESTER explained the bill had been reported out of committee, but the report was not read and adopted. Technically the bill is still in the committee.

Motion: **SEN. TESTER** moved to **REMOVE AMENDMENTS SB019601.ADS.**

Vote: Motion carried 9-2 with Mohl and Zook voting no.

Motion: **SEN. TESTER** moved that **AMENDMENT SB019607.ADS BE ADOPTED.**

Discussion:

SEN. TESTER explained the suggested amendments **SB19607.ads EXHIBIT(ags33a06)**

SEN. HOLDEN questioned penalties for out-of-state entities.

SEN. TESTER stated the intent of the bill is to get grocery stores to market products that are made in the USA or they can label country of origin unknown.

SEN. ZOOK questioned the requirements of out-of-state products as well as out-of-country. He noted beef is branded and its origin is already known.

SEN. TESTER noted that there are other states that have the same idea. Florida presently requires country of origin labeling.

SEN. MCNUTT stated Florida can also label produce easier and putting this mandate on grocers is not a right that the Legislature has.

SEN. MOHL questioned a revised fiscal note.

SEN. TESTER stated that he was trying to solve market identity.

SEN. HOLDEN noted that when people sell tractors, they want people to know where it came from. They paint it red and put a CASE logo on it. The same applies to people who produce beef.

SEN. MCNUTT stated that grocers can presently mark products how they see fit and the Legislature should not be giving grocers this unfunded mandate.

SEN. ZOOK questioned the penalty section and whether it was subject to this motion to remove amendments.

Doug Sternberg stated the penalties would remain in tact.

Vote: Motion **carried unanimously.**

SEN. HALLIGAN proposed an amendment regarding the penalties of the bill which is included in amendment **SB019607.ads**

Motion/Vote: **SEN. HALLIGAN** moved that **AMENDMENT SB0196.ADS BE ADOPTED.** Motion **carried unanimously.**

Motion/Vote: **SEN. TESTER** moved that **SB 196 DO PASS AS AMENDED.** Motion **carried 7-4** with McNutt, Mohl, Stapleton, and Zook voting no.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. RIC HOLDEN, Chairman

LARAMIE CUMLEY, Secretary

RH/LC

EXHIBIT (ags33aad)